

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LEONARD SCOTT,

No. C 09-2789 SI (pr)

Petitioner,

ORDER

v.

MATTHEW CATES, Secretary of
Corrections,


Respondent.

Petitioner has moved for appointment of counsel to represent him in this action. A district court may appoint counsel to represent a habeas petitioner whenever "the court determines that the interests of justice so require and such person is financially unable to obtain representation." 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint counsel is within the discretion of the district court. See Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986), cert. denied, 481 U.S. 1023 (1987). Appointment is mandatory only when the circumstances of a particular case indicate that appointed counsel is necessary to prevent due process violations. See id. Based on the materials in the court file, it does not appear that appointment of counsel is necessary in this action. The motion for appointment of counsel is DENIED. (Docket # 9.)

Petitioner is reminded that his deadline to file his opposition to the motion to dismiss is January 10, 2010.

IT IS SO ORDERED.

DATED: December 28, 2009


SUSAN ILLSTON
United States District Judge